

# EXHIBIT 58



NEW YORK CITY COMPTROLLER  
**BRAD LANDER**

**FY 2023**

# Agency Watch List

Department of Correction  
(DOC)

**Bureau of Budget**

**March 2022**



## Contents

Introduction .....	4
Spending .....	5
Projected spending growth in FY 2022 .....	5
Persons in Custody .....	6
Jail population increased in the beginning of FY 2021 .....	6
Closing Rikers Island requires further reductions to the jail population .....	7
Staffing .....	8
The number of correction officers has fallen .....	8
Overtime has exceeded pre-pandemic levels .....	9
Uniformed staff absences have soared .....	10
Safety and Violence .....	13
Indicators of jail violence rose over the last year .....	13
Services to the Incarcerated Population .....	16
Commissary revenue per incarcerated person has increased .....	16
Productions to court hearings fell dramatically .....	17
Non-production for medical appointments spiked in 2021 .....	18

# Introduction

The New York City Department of Correction (DOC) is responsible for the custody and care of individuals detained in city jail facilities – primarily people awaiting trial or serving short sentences.

For 14 consecutive fiscal years, the average daily jail population fell, reaching 4,961 in FY 2021. For most of this period, crime rates also declined steadily. As the population shrank, spending per incarcerated person, as measured by personnel and expenditures, skyrocketed. As of FY 2021, New York City spent more than half a million dollars to incarcerate one person for one year, nearly four times the amount spent 10 years ago.<sup>1</sup>

In spite of these resources, conditions and violence worsened. City jails have been in crisis over the last year. Staff absenteeism has grown, leading to the declaration of a state of emergency in September 2021. At least 19 people have died in custody since the start of 2021, including three people in 2022. Across the board, indicators of violence against both staff and people in custody are up, while the department's ability to provide crucial health and social services to people in custody has deteriorated.

Since 2015, the department has operated under the supervision of a court-appointed federal monitor, who continues to release increasingly grim and exasperated reports on the status of remedial efforts. In the most recent report, released in March 2022, the monitor expressed that “The first few months of 2022 have revealed the jails remain unstable and unsafe for both inmates and staff.” “The level of dysfunction within the Department’s staffing framework is unmatched by any jurisdiction with which the Monitoring Team has had experience,” the monitor observed. “High rates of use of force and violence...have become normalized and have seemingly lost their power to instill a sense of urgency among those with the power to make change.”<sup>2</sup>

Meanwhile, the jail population – which had fallen steadily for 14 years and dropped below 4,000 at the beginning of the pandemic – has risen again and now sits near 5,700. A reversal of this trend would be required to reach the target of 3,300, the capacity of the four borough-based jails that the City adopted plans to build as part of its plan to close Rikers Island by 2027.

Advancing the vision of a smaller, safer and fairer jail system remains one of the City’s most pressing challenges and will necessitate collective action on the part of all criminal legal system stakeholders. Achieving those goals requires both immediate reform to address conditions that contribute to the crisis of violence in the City jails, and policy change to further reduce the jail population, in particular the significant share of people in custody being detained pretrial, at least to the level needed to close Rikers.

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<sup>1</sup> The full annual cost of incarcerating one person, including costs at DOC and other agencies, grew 286% from \$144,176 in FY 2011 to \$556,539 in FY 2021. In comparison, inflation in the New York City metro area totaled about 18% over the same period. New York City Comptroller, “Department of Correction,” <https://comptroller.nyc.gov/reports/nyc-department-of-correction/>.

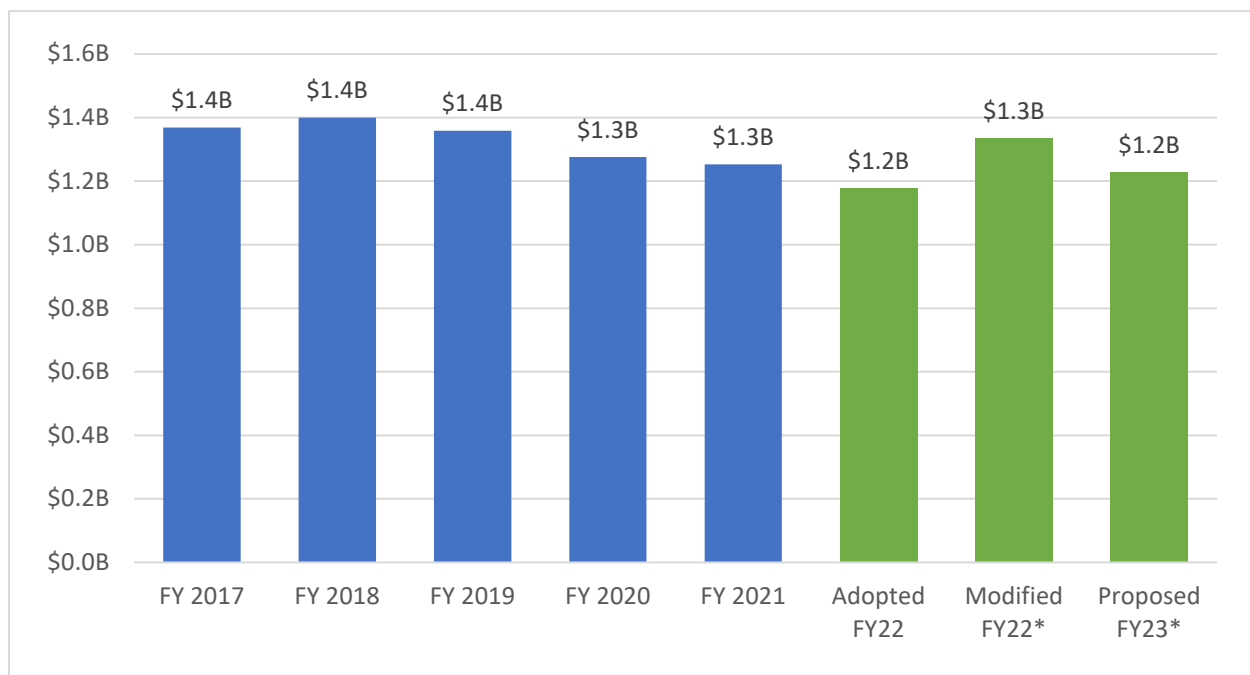
<sup>2</sup> *Special Report of the Nunez Independent Monitor* (March 16, 2022), <https://storage.courtlistener.com/recap/gov.uscourts.nysd.383754/gov.uscourts.nysd.383754.438.0.pdf>.

# Spending

## Projected spending growth in FY 2022

- Since FY 2018, DOC's total spending steadily declined, falling 11% from \$1.40 billion in FY 2018 to \$1.25 billion in FY 2021, even as per-person spending increased dramatically due to a much more rapidly falling population (Chart 1).
- The City adopted a 6% reduction in DOC's budget for FY 2022 last June, but revisions since adoption have pushed the forecast for the current year up to \$1.34 billion, or 7% higher than FY 2021. Revisions include \$44 million in emergency relief for Rikers Island facilities, including funding for cleaning and cell door upgrades, \$15 million for evaluating staff who call out sick, and \$52 million in upward adjustments to personnel costs.
- The City's Preliminary Budget for FY 2023 proposes a total budget of \$1.23 billion for the next fiscal year, about the same level as FY 2021. However, based on spending over the last five fiscal years, the Comptroller's Office projects that overtime will exceed projections and lead to a higher level of spending.

**Chart 1. Total Department of Correction Actual and Forecasted Spending (dollars in billions)**



SOURCE: NYC Comptroller's Office analysis of the City's *Annual Comprehensive Financial Reports* and Office of Management and Budget, *FY 2023 Preliminary Budget* (February 2022).

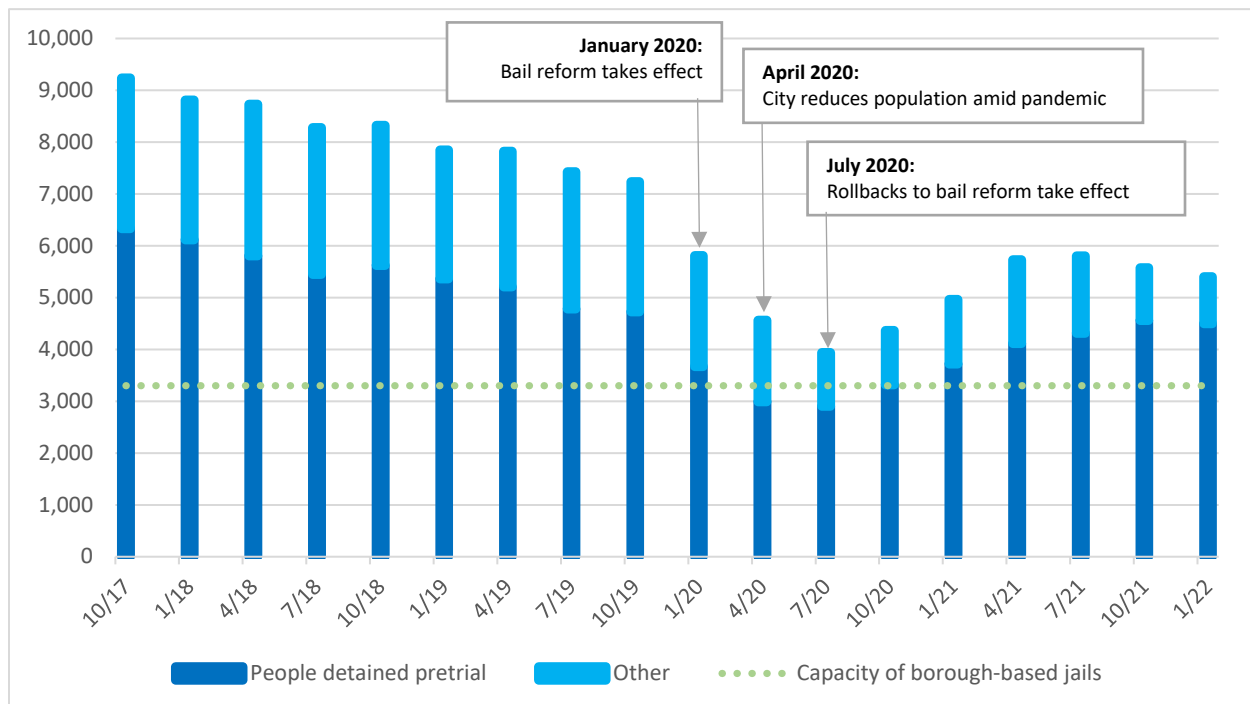
NOTES: Uniformed employees assigned to the Horizon Juvenile Detention Center and related costs in FY 2019 to 2023 have been excluded. \*Budgeted, as of February 2022 Financial Plan.

# Persons in Custody

## Jail population increased in the beginning of FY 2021

- Since FY 2007, the City's jail population has steadily fallen. In the lead-up to the January 1, 2020 bail law changes, which limited the number of charges subject to bail, these declines accelerated, causing the population to drop below 6,000 (Chart 2). Soon after, the pandemic hit the city and the jail population temporarily fell below 4,000, the lowest population since 1946, as city and state officials worked to reduce the number of people in custody in the interest of public health.
- However, since then a number of factors, including increased gun arrests, delays in court proceedings, and bail reform rollbacks, caused the jail population to rise back to pre-pandemic levels.
- As of mid-March 2022, the average daily jail population was around 5,700.

**Chart 2. Jail Population Trends**

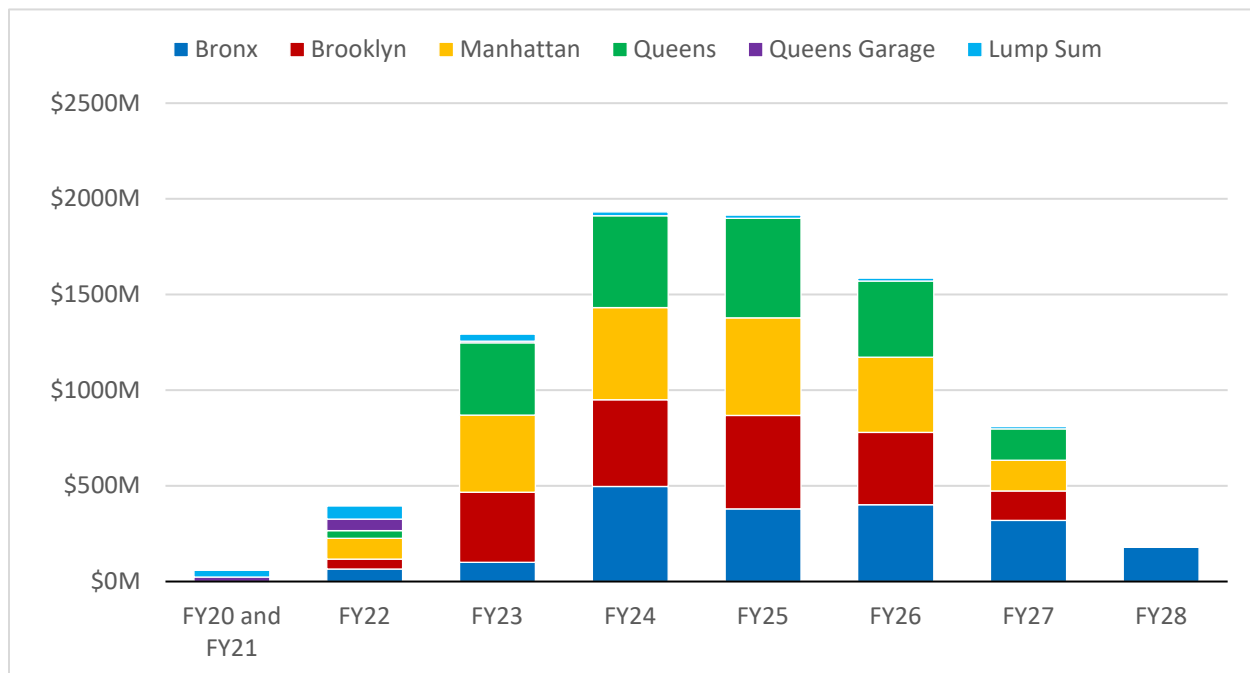


SOURCE: NYC Comptroller's Office analysis of data published by Vera Institute of Justice, Jail Viz 2.0. Monthly jail population data represent the population in custody in City jails on the first day of the month for which data are available.

## Closing Rikers Island requires further reductions to the jail population

- In 2019, the New York City Council approved a plan to build four new jails – in every borough except Staten Island – to facilitate the closure of jail facilities on Rikers Island by 2027.
- As of the FY 2023 Capital Plan, the City expects to spend a total of \$8.1 billion through FY 2028 on these new facilities (Chart 3). Each facility would cost roughly \$2 billion. The City has also allocated an additional \$67 million to a new parking garage in Queens and \$168 million in a lump sum allocation.
- To date, the City has committed about \$438 million, including close to \$380 million in the current fiscal year. Major construction activities began on the Queens site in June 2021.<sup>3</sup>
- The four new jail facilities will have a combined capacity of 3,300 – roughly 2,400 less than the current daily population.

**Chart 3. Borough-Based Jails Capital Commitment Plan (dollars in millions)**



SOURCE: NYC Comptroller's analysis of the *FY 2023 Preliminary Capital Plan* (February 2022).

<sup>3</sup> <https://www1.nyc.gov/office-of-the-mayor/news/466-21/mayor-de-blasio-beginning-major-construction-activities-borough-based-jails-program>

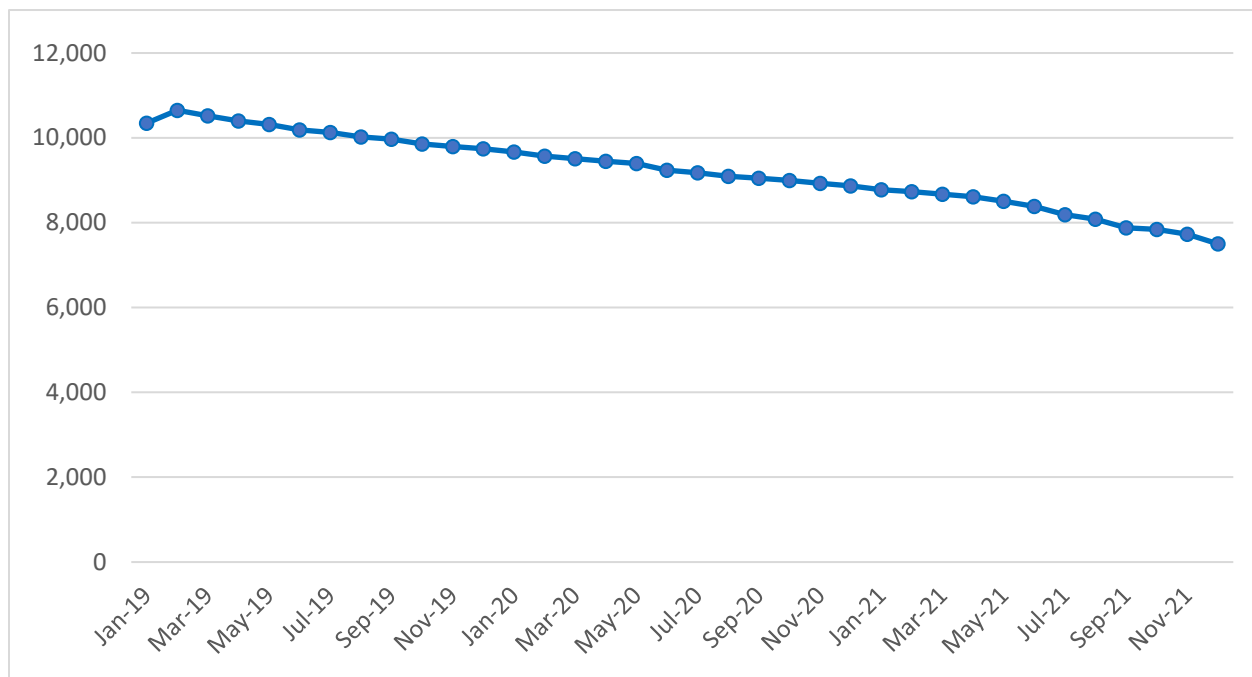


# Staffing

## The number of correction officers has fallen

- As of December 2021, DOC employed 7,501 correction officers, a reduction of 27% since January 2019, and close to the City's FY 2022 year-end projection of 7,460 (Chart 4).
- DOC initially had more aggressive plans to reduce headcount. When the City adopted its budget in June 2020, the City forecast that the number of correction officers would drop to 7,060 by the end of FY 2022. However, the City backtracked in April 2021, adding funding to hire 400 new recruits.

**Chart 4. NYC Department of Correction Full-time Uniformed Staffing (as of end of month)**

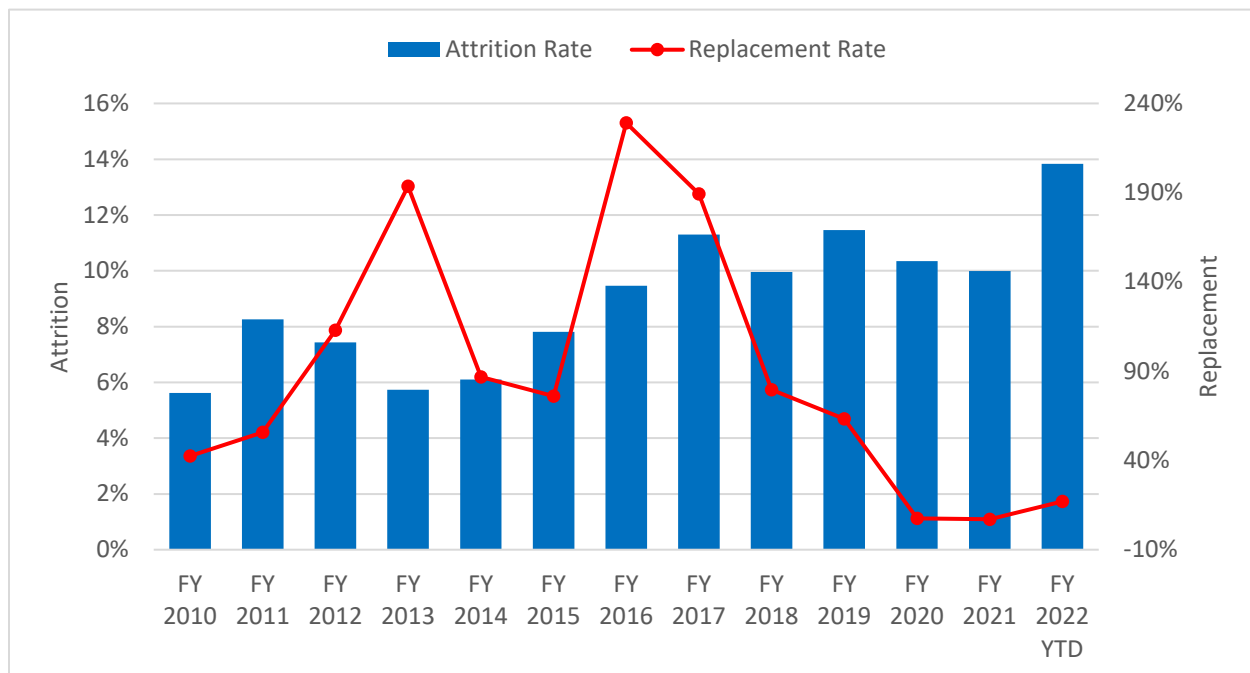


SOURCE: New York City Office of Management and Budget.

- For the first eight months of FY 2022, a total of 1,156 DOC uniformed staff separated from the agency – including resignations, retirements, transfers and layoffs – pushing the attrition rate to 14%, up from an annual rate of roughly 10%-11.5% in the last five fiscal years (Chart 5).
- Uniformed staff hiring has increased in FY 2022, bringing the replacement rate, i.e., the share of separations that are replaced by new hires, from 7% in FY 2021 to 17% in the first eight months of FY 2022.
- Multiple factors likely drove the attrition rate higher in the current fiscal year, including pandemic-related impacts, violent conditions in the jails, staff being required to work double- and triple-shifts to cover for other staff who were not showing up to work, and the City's vaccine mandate.

- In October 2021, the City mandated that all municipal workers receive the COVID-19 vaccine, setting a December 1, 2021 deadline for the first dose for correction officers. Shortly after the deadline, about 500 correction officers were placed on unpaid leave for refusing to comply; another 9% of uniformed staff applied for medical or religious exemptions.<sup>4</sup> In mid-February, the City reported that 75 DOC staff, including uniformed and civilian, were fired for refusing the vaccine.<sup>5</sup>

**Chart 5. Attrition and Replacement Rate for Uniformed Department of Correction Staff**



SOURCE: NYC Comptroller analysis of City Human Resource Management System (CHRMS).

Note: Data for FY 2022 goes through the end of February 2022. “Attrition rate” equals the total number of separations divided by the total number of staff at the beginning of the period. “Replacement rate” equals the total number of new hires divided by the number of separations.

## Overtime has exceeded pre-pandemic levels

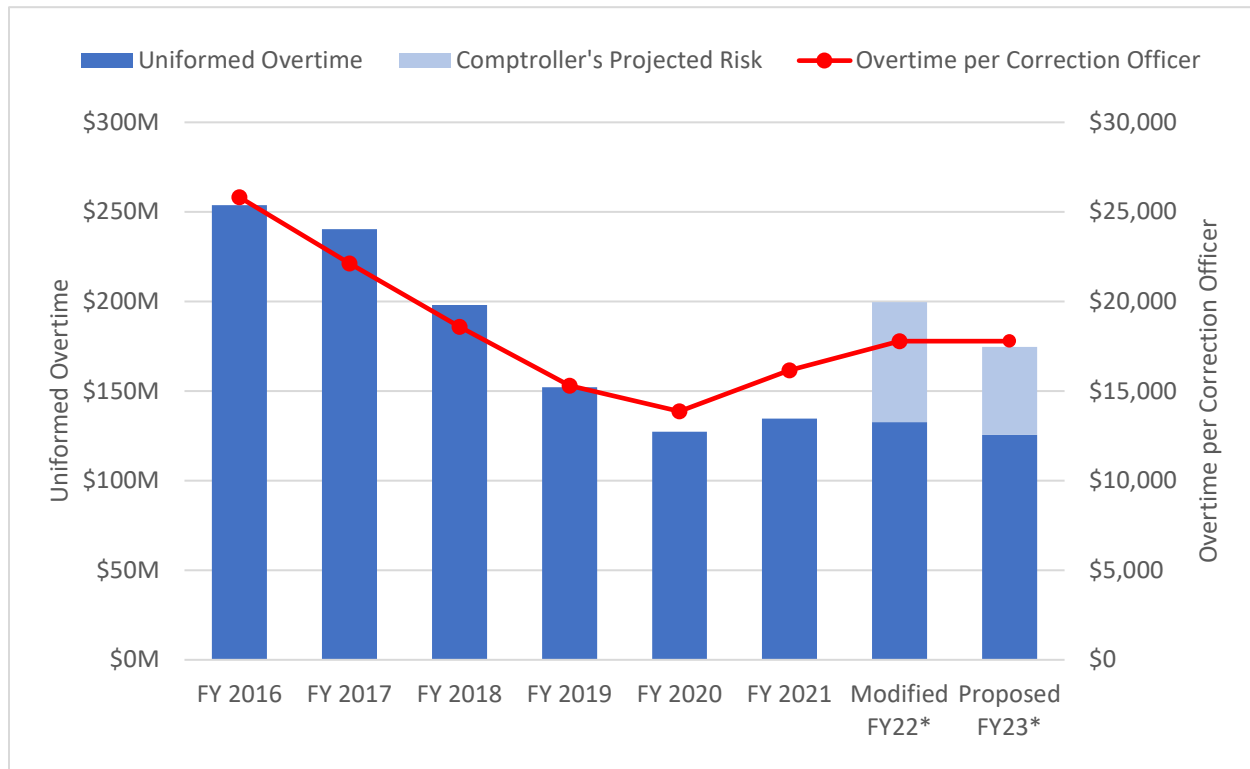
- After peaking in FY 2016, DOC uniformed staff overtime steadily fell, dropping from \$254 million in FY 2016 to \$127 million in FY 2020, before increasing slightly to \$135 million in FY 2021 (Chart 6).
- However, in just the first seven months of FY 2022 (July-January), uniformed overtime at DOC totaled \$132 million, 71% higher than pre-pandemic levels in FY 2020.

<sup>4</sup> Priscilla DeGregory and Kenneth Garger, “NYC Correction Officers Union Sues City Over Vaccine Mandate” *New York Post* (December 8, 2021), <https://nypost.com/2021/12/08/nyc-correction-officers-union-sues-city-over-vaccine-mandate/>.

<sup>5</sup> Amanda Eisenberg, “New York City Fires 1,430 Municipal Workers Over Vaccine Mandate” *Politico* (February 15, 2022), <https://www.politico.com/news/2022/02/15/nyc-fires-municipal-workers-vaccine-mandate-00008645>.

- The Comptroller's Office projects that uniformed overtime costs at DOC will exceed the City's current assumptions by \$67 million in FY 2022 and \$49 million in FY 2023.<sup>6</sup>

**Chart 6. Department of Correction Uniformed Overtime and Overtime per Correction Officer by Fiscal Year**



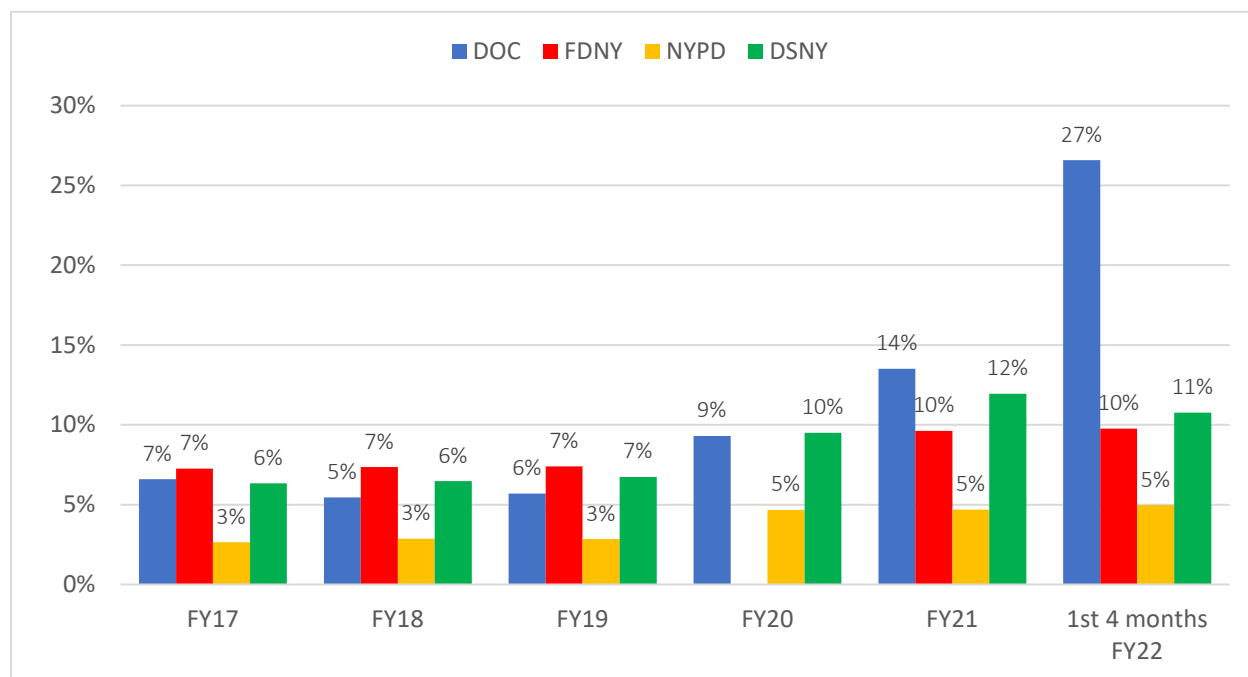
SOURCE: NYC Comptroller's Office analysis of the NYC Financial Management System and the *Preliminary FY 2023 Budget* (February 2022).

Note: Excludes overtime expenses for staff assigned to the Horizon Juvenile Detention Center.

## Uniformed staff absences have soared

- Before FY 2020, the annual paid absence rate for uniformed staff at DOC averaged between 5% and 7% and was close to the rates at the Fire Department (FDNY) and the Department of Sanitation (DSNY) (Chart 7). The absence rate includes sick leave and line-of-duty injury absences.
- Since the start of the pandemic, absences have grown at all uniformed agencies. However, in the first four months of FY 2022 (July-October 2021), DOC's uniformed absentee rate skyrocketed to 27%, far surpassing the 10% rate at FDNY and the 11% rate at DSNY.

<sup>6</sup> Office of the New York City Comptroller, *Comments on New York City's Preliminary Budget for Fiscal Year 2023 and Financial Plan for Fiscal Years 2022-2026* (March 2022), <https://comptroller.nyc.gov/reports/comments-on-new-york-citys-preliminary-budget-for-fiscal-year-2023-and-financial-plan-for-fiscal-years-2022-2026/>.

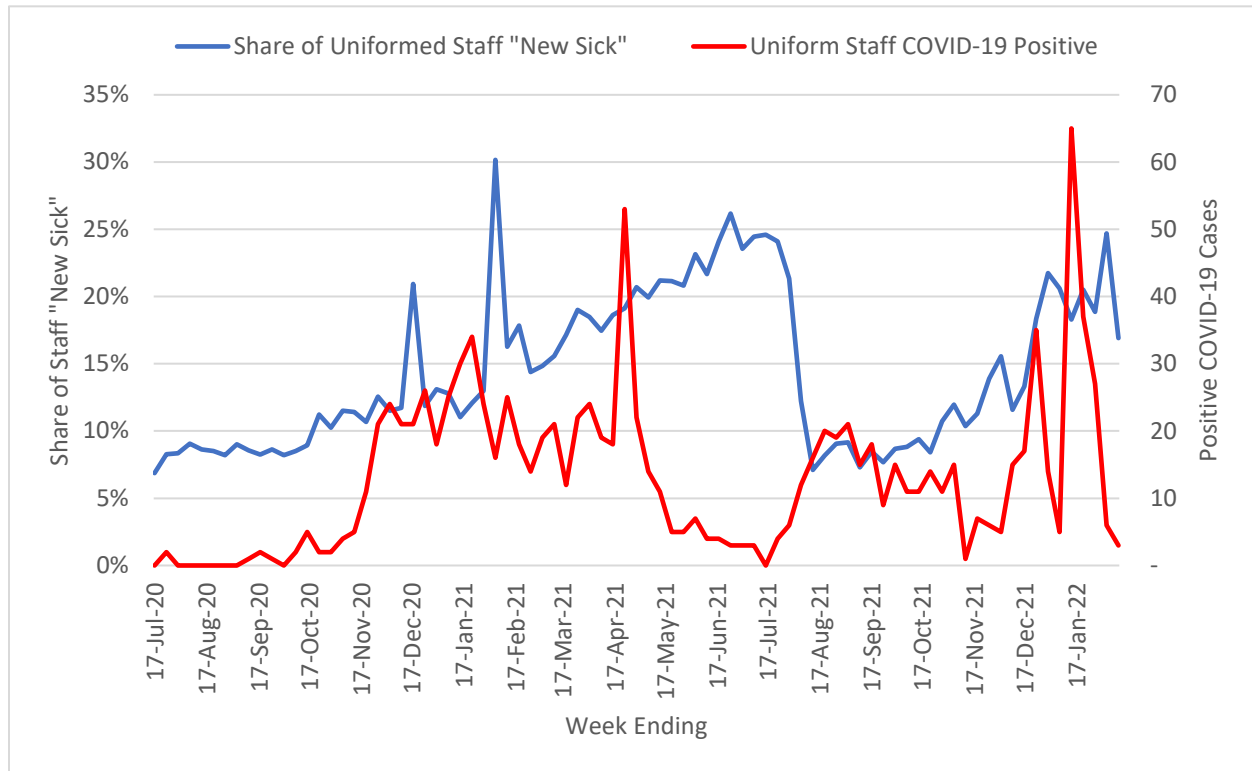
**Chart 7. Total Paid Absence Rate for Uniformed Workers by Agency**

SOURCE: New York City Mayor's Office of Operations, *Mayor's Management Reports*.

Note: The Absence Rate is calculated by dividing the sum of paid sick leave and Line-of-Duty Injury absence for uniformed employees, by paid scheduled hours. Data is not available for FDNY in FY 2020.

- Since July 2020, the City's Correctional Health Services – the provider of health care to incarcerated persons and DOC staff – has been required to publish weekly reports on the number of staff out sick, including positive cases of COVID-19.
- During FY 2021, the share of uniformed staff calling out “newly sick” progressively climbed from 7% during the week ending July 17, 2020 to more than 20% per week through May, June and July of 2021 (Chart 8). Newly sick refers to staff who call out sick for the first time.
- After falling in August 2021, the share of staff calling out newly sick each week rose through the fall and winter, reaching a recent peak of 25% for the week ending February 4, 2022, even as COVID-19 cases declined.

**Chart 8. Share of Department of Correction Uniformed Staff Newly Out Sick per Week**



SOURCE: NYC Comptroller's Office analysis of Correctional Health Services, *Local Law 59 Reports*, <https://www.nychealthandhospitals.org/correctionalhealthservices/publications-reports/>.

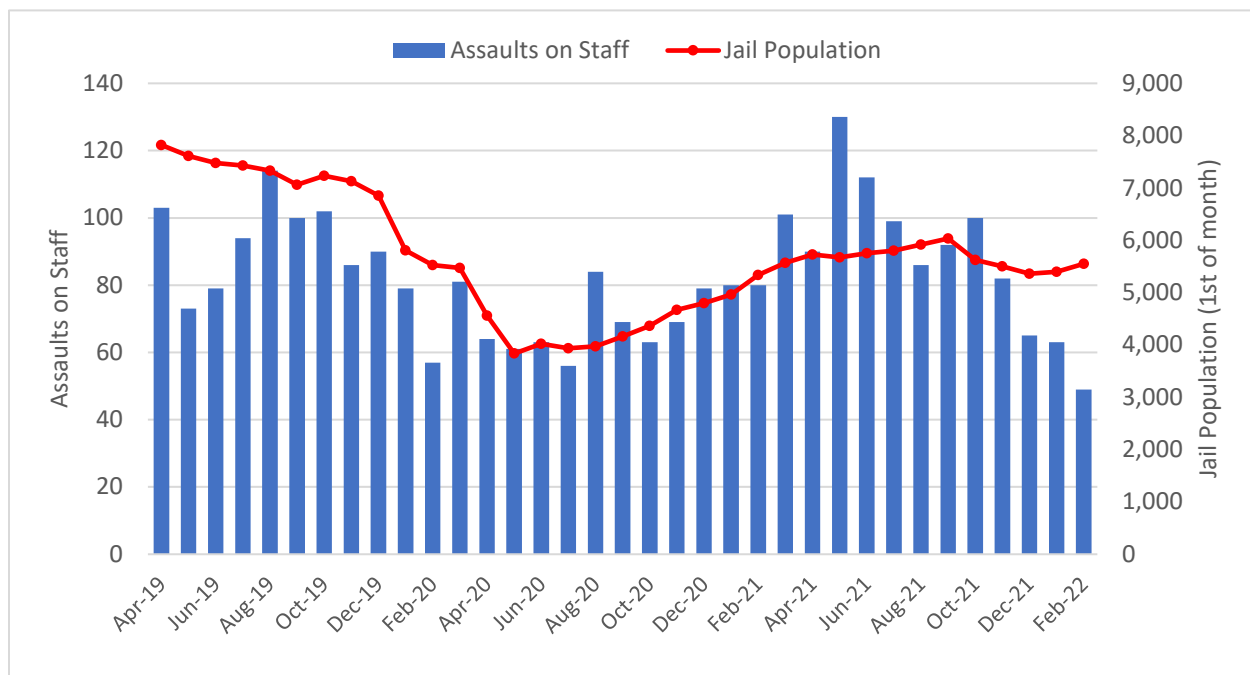
Note: "New Sick" refers to the number of uniform staff who call out sick for the first time. Some staff return to work the next day, while others are out for multiple days. According to the data reports, data "represents a snapshot in time and therefore is subject to change based on updated information subsequently reported by staff members to the Department."

# Safety and Violence

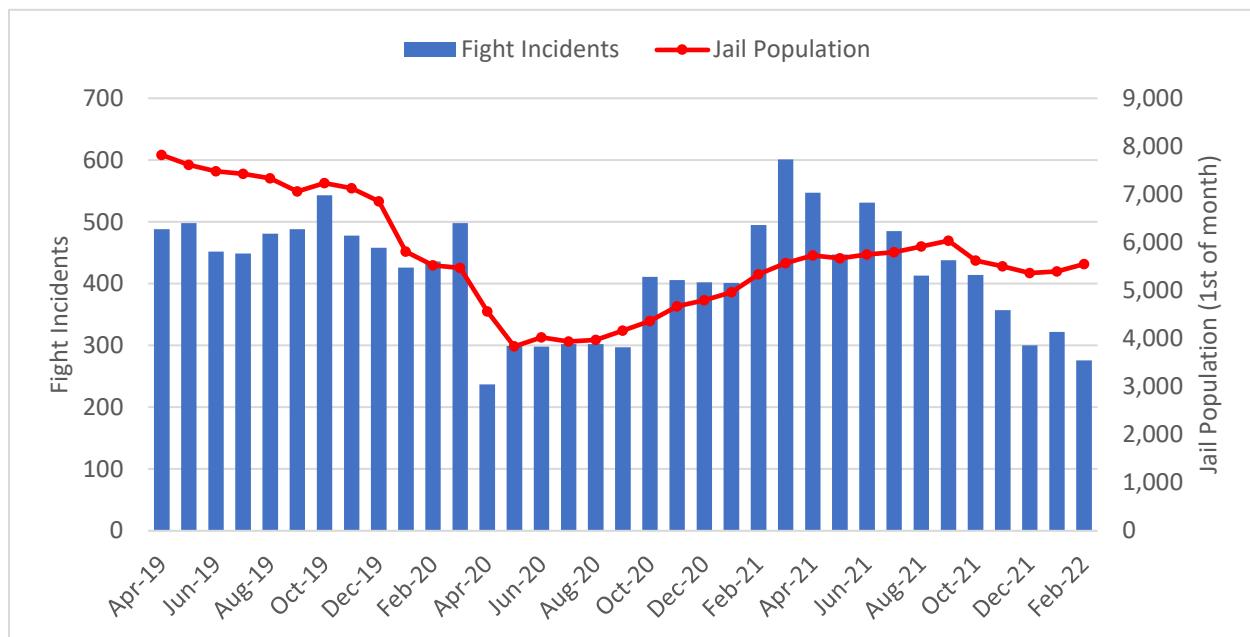
## Indicators of jail violence rose over the last year

- For the first eight months of FY 2022 (July 2021-February 2022), the monthly number of assaults on staff has generally trended down, after peaking in May 2021, but the year-to-date total was still 10% higher than the same period in the prior year (Chart 9).
- The number of violent fights among persons in custody also peaked in the spring of 2021 and has since declined (Chart 10). For the first eight months of FY 2022, the total number of fights was roughly the same as the prior year.
- However, the number of slashings and stabbings has more than tripled for FY 2022 to-date, rising to 317 in the first eight months of FY 2022, up from 97 in the same period last fiscal year (Chart 11).
- Use of force incidents and allegations have also reached record highs in recent months, after falling at the outset of the pandemic (Chart 12). In the final quarter of FY 2021 (April-June 2021), DOC recorded 2,375 incidents and allegations, 37% higher than the number recorded in the fourth quarter of FY 2019. Adjusted for the jail population, the rate of use of force was nearly 42 per 100 in the fourth quarter of FY 2021, up 81% from the same quarter in FY 2019 and triple the rate in FY 2017.

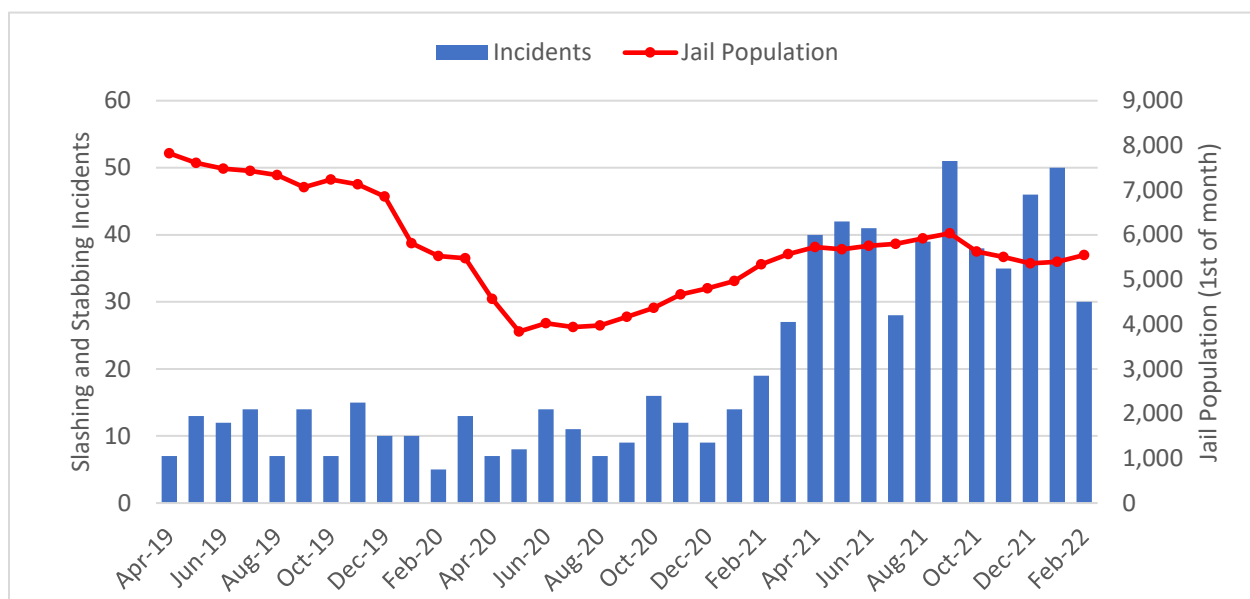
**Chart 9. Number of Assaults on Staff by Incarcerated Individuals**



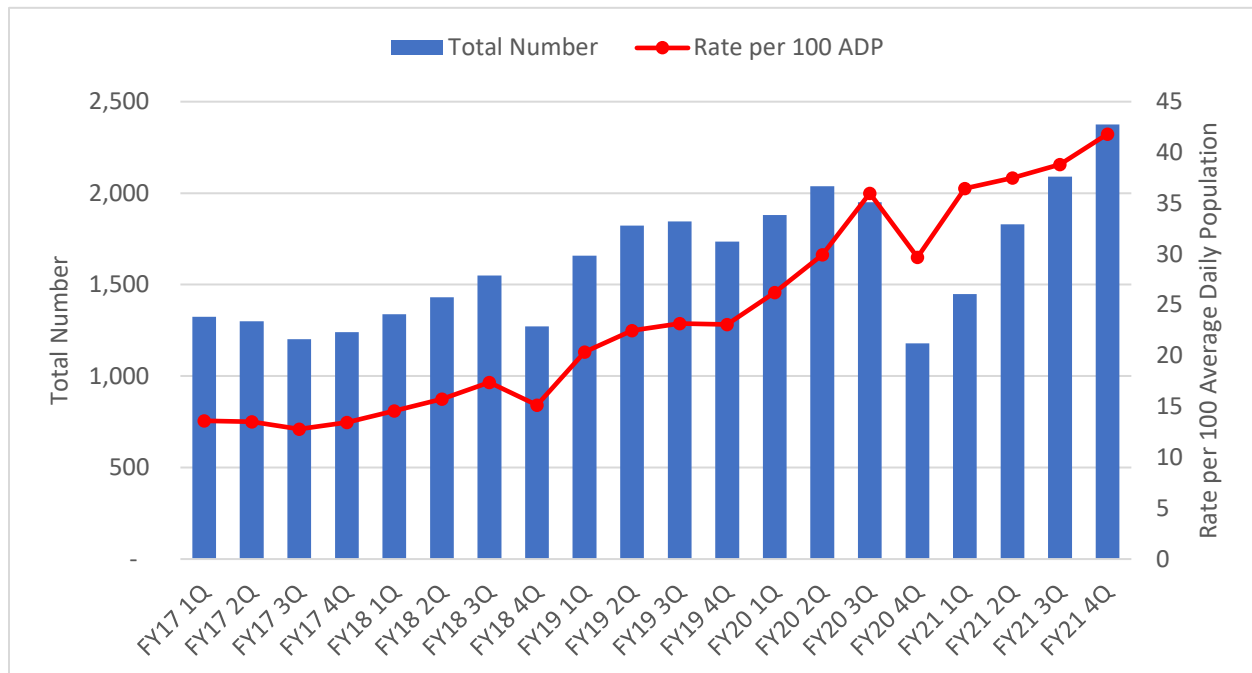
SOURCE: NYC Comptroller analysis of Department of Correction data available on NYC Open Data, <https://data.cityofnewyork.us/Public-Safety/Inmate-Assault-on-Staff/erra-pzy8>; and Vera Institute of Justice, Jail Viz 2.0.

**Chart 10. Violent Fights Among Persons in Custody per Month**

SOURCE: NYC Comptroller analysis of Department of Correction data available on NYC Open Data, <https://data.cityofnewyork.us/Public-Safety/Inmate-Incidents-Inmate-Fights/k548-32d3>; and Vera Institute of Justice, Jail Viz 2.0.

**Chart 11. Slashing and Stabbing Incidents Among Persons in Custody**

SOURCE: NYC Comptroller analysis of Department of Correction data available on NYC Open Data, <https://data.cityofnewyork.us/Public-Safety/Inmate-Incidents-Slashing-and-Stabbing/gakf-suij>; and Vera Institute of Justice, Jail Viz 2.0.

**Chart 12. Incidents and Allegations of Use of Force by Fiscal Year Quarter**

SOURCE: NYC Comptroller analysis of Department of Correction, *Security Indicators Reports*, <https://www1.nyc.gov/site/doc/about/security-indicators%20page>.

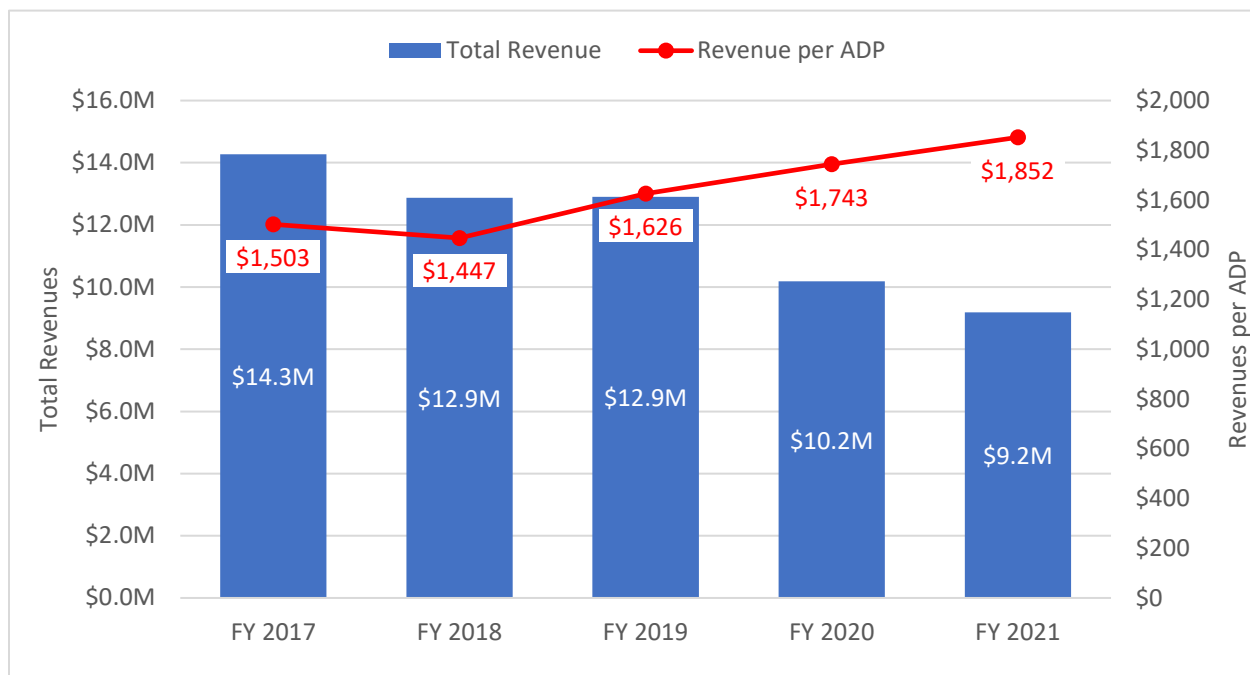


# Services to the Incarcerated Population

## Commissary revenue per incarcerated person has increased

- While incarcerated, individuals typically have access to jail commissaries, which provide a range of goods, including food, beverages, and personal hygiene products. Purchases appear as revenue to the City and are funded by outside deposits from friends and family or wages from job assignments.
- Over the last three fiscal years, purchases from DOC commissaries have grown 28% from an average of \$1,447 per incarcerated person each year in FY 2018 to \$1,852 in FY 2021 (Chart 13).

**Chart 13. Department of Correction Total Commissary Revenue and Revenue per Average Daily Population (ADP)**

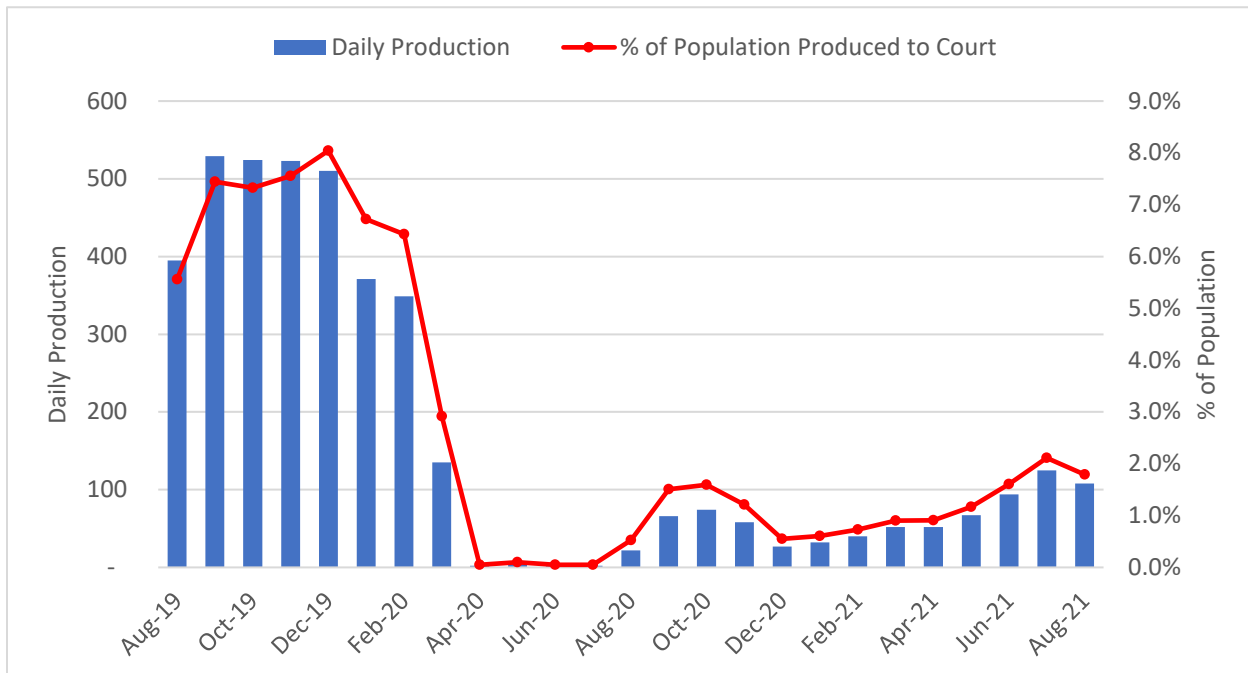


SOURCE: NYC Comptroller's analysis of the City's *Annual Comprehensive Financial Reports* and New York City Mayor's Office of Operations, *Mayor's Management Reports*.

## Productions to court hearings fell dramatically

- At the onset of the pandemic, grand jury hearings were suspended from mid-March to August 10, 2020, delaying the judicial process for incarcerated individuals awaiting court hearings. Hearings were again suspended on November 16, 2020. The courts resumed civil and criminal jury trials on March 22, 2021.
- However, the share of the jail population produced to court remained significantly below pre-pandemic levels through the summer of 2021. In August 2021, less than 2% of the jail population was produced in court, compared to 5.6% in August 2019 (Chart 14).

**Chart 14. Department of Correction Daily Production to Court**

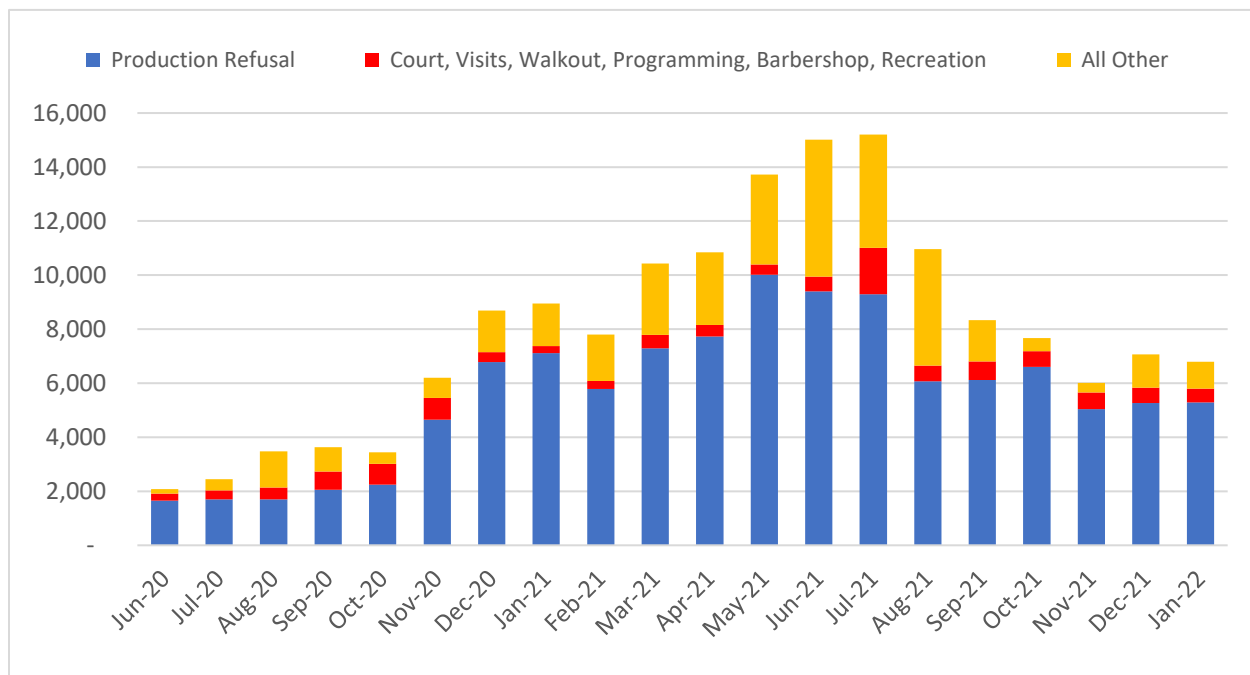


SOURCE: New York City Mayor's Office of Criminal Justice, *What's the Justice System's Role in Driving the Jail Population* (October 2021), <https://criminaljustice.cityofnewyork.us/wp-content/uploads/2021/10/Whats-the-justice-systems-role-in-driving-the-jail-population-up.pdf>.

## Non-production for medical appointments spiked in 2021

- Pursuant to Local Law 132 of 2019, DOC is required to report on the non-production of individuals to scheduled medical appointments. Monthly reports show that the number of people who were not produced rose from 2,083 in June 2020 to a peak of 15,201 in July 2021 (Chart 15). This peak corresponds with the period during which a progressively higher share of uniformed officers were reported as “new sick.”

**Chart 15. Department of Correction Medical Appointment Non-production by Reason**



SOURCE: New York City Department of Correction, *Monthly Medical Non-Production Reports*, <https://www1.nyc.gov/site/doc/about/monthly-medical-reports.page>.

Note: According to DOC, “all other” includes but is not limited to instances where an incarcerated individual chooses to instead attend a work assignment, law library, school, religious services, or commissary, when an escort is not available, or when movement is limited due to a lockdown, search, or alarm.





**NEW YORK CITY COMPTROLLER**  
**BRAD LANDER**

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1 Centre Street, New York, NY 10007

[www.comptroller.nyc.gov](http://www.comptroller.nyc.gov)

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(212) 669-3916